There are, however, unsatisfactory features apparent on the record. The charge is defective in that it has not been accurately framed. It does not state so much of the definition of the offence as to give the accused notice of the matter with which he is charged. The cases which have been cited show that it is a safe and prudent general rule that the charge should follow the wording of the section of the law under which it is brought. Unless this is done, the case will very often take a wrong turn and a misdirection will result.

There were also other questionable aspects of the case, but as the defect already mentioned was fatal to the conviction, the other aspects of the appeal were not argued before me and I shall withhold comment on them.

In the result I allowed the appeal, reversed the finding and sentence against the appellant and acquitted and discharged him.

Appeal allowed.

Solicitors: *Sen & Lim.*

CHUA BAK HENG v. REG.

[A. Cr. J. (Chua J.) September 16, 1957]

[Singapore — Criminal Appeal No. 123 of 1957]

Road Traffic — Heavy motor car — Laden weight — Determination of — Whether Registrar of Vehicles has power to assess or determine — Motor Vehicles (Construction and Use) Rules, 1948, rr. 89 & 93A — Whether ultra vires powers of Minister for Communication and Works — Road Traffic Ordinance (Cap. 227), s. 44(1)(d).

This was an appeal by the accused against his conviction on a charge of using a motor lorry so laden with bales of rubber that the weight thereof including the load exceeded the maximum laden weight painted on the side of the lorry in pursuance of rule 89 of the Motor Vehicles (Construction and Use) Rules, 1948. It was contended on behalf of the appellant that the Registrar of Vehicles had no power to regulate, assess or to determine the maximum laden weight of heavy motor cars and motor cars which were constructed or adapted for use for the carriage of goods or trailers and that the determination of the maximum laden weight of such vehicles was *ultra vires* the powers of the Registrar of Vehicles. It was further contended that as the Registrar of Vehicles had no authority to determine the maximum laden weight of such vehicles rule 93A of the Motor Vehicles (Construction and Use) Rules, 1948 was also *ultra vires.*

Held: (1) by section 44(1)(d) of the Road Traffic Ordinance (Cap. 227) the power to regulate the maximum laden weight of motor vehicles was exclusively reserved to the Minister for Communications and Works;

(2) the Registrar of Vehicles had no authority to fix the maximum laden weight of a heavy motor car or a motor car which was constructed or adapted for use for the carriage of goods or a trailer, and such weight fixed by him on the licence was in conflict with the maximum laden weight laid down in rule 94 or 95 or 96 of the Motor Vehicles (Construction and Use) Rules, 1948;

(3) the determination of the maximum laden weight of heavy motor cars constructed or adapted for use for the carriage of goods or trailer was *ultra vires* the powers of the Registrar of Vehicles;

(4) Rule 93A of the Motor Vehicles (Construction and Use) Rules, 1948 was *ultra vires* the powers of the Minister for Communications and Works.

MAGISTRATE'S APPEAL.

K Seth (*Tan Peng Khoo* with him) for the appellant.

E. H. D'Netto (Crown Counsel) for the respondent.

Chua J. : — The appellant in this case was charged in the Magistrate's Court with the following charge :—

"That you, at or about 12.05 p.m. on 20.6.56 at Beach Road, did use m/lorry SA 2881 constructed (or adapted) for use for the carriage of goods, so laden with bales of rubber that the weight thereof including the load amounted to 11 tons 4 cwts. which laden weight exceeded the maximum laden weight of 5 tons 1 cwt. painted or marked thereon in pursuance of Rule 89 and thereby committed an offence under Rule 93A of M.V. (Const. & Use) Rules 1948, and punishable under Sec. 81 R.T. Ord. 17/41."

The appellant was found guilty and was fined $30 in default 6 days imprisonment.

The facts are not in dispute. The appellant who was driving motor lorry No. SA 2881 was stopped whilst conveying rubber. The lorry was weighed with the rubber on it and found to be 11 tons 4 cwts. This was in excess of the maximum laden weight of 5 tons 1 cwt. painted on the side of the lorry.

This appeal involves important points of law. It is contended on behalf of the appellant (i) that the Registrar of Vehicles, Singapore, has no power to regulate, assess or to determine the maximum laden weight of heavy motor cars and motor cars which are constructed or adapted for use for the carriage of goods or trailers and that the determination of the maximum laden weight of such vehicles is *ultra vires* the powers of the Registrar of Vehicles and (ii) that as the Registrar of Vehicles, Singapore, has no authority to determine the maximum laden weight of such vehicles Rule 93A of the Motor Vehicles (Construction and Use) Rules 1948 is also *ultra vires.*

Rule 93A of the Motor Vehicles (Construction and Use) Rules 1948 provides as follows :—

93A. No person shall use, cause, suffer or permit to be used any heavy motor car, motor car which is constructed or adapted for use for the carriage of goods or trailer, so laden that the weight thereof, including the load, exceeds the maximum laden weight painted or otherwise marked thereon in pursuance of rule 89, 90 or 91 as the case may be."

Rule 89 of the Motor Vehicles (Construction and Use) Rules 1948 is as follows :—

89. The owner of a heavy motor car shall cause his name and address, the weight of the vehicle unladen, the maximum laden weight endorsed on the licence issued under the Motor Vehicles (Registration and Licensing) Rules, 1949 in respect of such vehicle and the maximum

speed at which the vehicle may be driven when not drawing a trailer to be painted or otherwise plainly marked upon some conspicuous place on the vehicle to be determined by the Registrar."

Rules 90 and 91 of the Motor Vehicles (Construction and Use) Rules 1948 are similar to Rule 89 and they apply to motor cars which are constructed or adapted for use for the carriage of goods and to trailers.

An application for the registration of a motor vehicle must, as provided by Rule 3 of the Motor Vehicles (Registration and Licensing) Rules 1948 be in Form No. 1 in the First Schedule of the said Rules. The Registrar of Vehicles would insert in the line "Laden weight approved" appearing in Form No. 1 the laden weight approved by him. The Registrar of Vehicles in his evidence in the Magistrate's Court said that there was no specific rule on how the laden weight was to be determined. He said that he derived the figure from the weight specified by the manufacturers of the vehicles and if no weight was specified he would get the advice of an expert.

Now, the question arises whether the Registrar of Vehicles has the authority to determine the maximum laden weight of a heavy motor car or a motor car constructed or adapted for use for the carriage of goods or of a trailer and endorse such weight on the licence. In his evidence in the Magistrate's Court the Registrar of Vehicles said that he had "a statutory duty to complete Form 1" by filling in the "Laden weight approved", but the Registrar of Vehicles is not empowered by the Road Traffic Ordinance (Cap 227) or any of the Rules made under the Ordinance to regulate the maximum laden weight of motor vehicles or trailers and it appears to me that the Registrar of Vehicles fills in the laden weight in Form No. 1 just because it is one of the items which requires to be filled in. The power to regulate the maximum laden weight of motor vehicles is exclusively reserved to the Minister for Communications and Works by section 44(1)(d) of the Road Traffic Ordinance (Cap. 227) and no rules have been made by the Minister as to the method of ascertaining the maximum laden weight of a motor vehicle for the purpose of having it endorsed on a licence by the Registrar of Vehicles.

Rule 95 of the Motor Vehicles (Construction and Use) Rules 1948, however, lays down the maximum laden weight that is to be transmitted to the road surface by a heavy motor car or a motor car. Rule 95 reads as follows :—

> 95. The weight transmitted to the road surface by any one wheel of a heavy motor car or a motor car where no other wheel is in the same line transversely shall not exceed three tons and the weight so transmitted by any two wheels in line transversely shall not exceed, in the case of a four-wheeled vehicle six tons, and in the case of a vehicle with more than four wheels, five tons, and the sum of the weights transmitted to the road surface by all the wheels of a heavy motor car or motor car shall not exceed in the case of a vehicle with four wheels nine tons and in the case of a vehicle with more than four wheels, 12 tons."

Rule 94 of the Motor Vehicles (Construction and Use) Rules 1948 lays down the maximum laden weight of a trailer and motor vehicle drawing such trailer that is to be transmitted to the road surface and Rule 96 of the same Rules lays down the maximum laden weight of a trailer that is to be transmitted to the road surface.

We have then the position that there are two maximum laden weights laid down for heavy motor cars and for motor cars which are constructed or adapted for use for the carriage of goods and for trailers — one fixed by the Registrar of Vehicles and the other fixed by the Minister in Rules 94, 95 and 96 of the Motor Vehicles (Construction and Use) Rules 1948.

The Registrar of Vehicles not only has no authority to fix the maximum laden weight of a heavy motor car or a motor car which is constructed or adapted for use for the carriage of goods or a trailer but such weight fixed by him and endorsed on the licence is in conflict with the maximum laden weight laid down in Rule 94 or 95 or 96 of the Motor Vehicles (Construction and Use) Rules 1948.

I therefore conclude that the Registrar of Vehicles is acting *ultra vires* by determining the maximum laden weight of heavy motor cars, or motor cars constructed or adapted for use for the carriage of goods or trailers and endorsing it on the licence. It follows therefore that Rule 93A is also *ultra vires*.

The appeal is allowed. Conviction and sentence set aside. The fine if paid is to be refunded to the appellant.

Appeal allowed.

Solicitors : *Oehlers & Choa.*